

## **Remarks**

### **I. Status of claims**

Claims 1-36 were pending.

Withdrawn claims 1-10, 20-32, 35, and 36 have been canceled without prejudice.

Dependent claims 37-43 have been added.

### **II. Claim rejections under 35 U.S.C. § 101**

The Examiner has rejected claims 11-19, 33, and 34 under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Claims 11-19, 33, and 34 have been amended in ways that address the Examiner's concerns in this regard. In particular, as amended the claims are not directed to a mental construct or an abstract idea and, instead, define subject matter that produces a useful, concrete, and tangible result via the transformation of a scalable bit stream. The rejections under 35 U.S.C. § 101 now should be withdrawn.

### **III. Claim rejections under 35 U.S.C. § 112**

The Examiner has rejected claims 11, 33, and 34 under 35 U.S.C. § 112, second paragraph, as being indefinite.

Claims 11, 33, and 34 have been amended in ways that address the Examiner's concerns in this regard. The rejections under 35 U.S.C. § 112, second paragraph, now should be withdrawn.

### **IV. Claim rejections under 35 U.S.C. § 102**

The Examiner has rejected claims 11-19, 33, and 34 under 35 U.S.C. § 102(e) over Xie (U.S. 7,260,261).

#### **A. Claim 11**

Independent claim 11 has been amended and now recites:

11. A machine-implemented method, comprising:
- receiving a scalable encoded bitstream comprising scalable encoded media data and values of non-media-type-specific scalability attributes corresponding to different adaptation points of the scalable encoded media data;
  - selecting an adaptation point for the scalable encoded bitstream without regard to the scalable encoded media data, wherein the selecting comprises comparing adaptation measures computed from ones of the scalability attribute values to receiving attributes specifying constraints on the adaptation measures for a destination of the scalable encoded bitstream; and
  - transcoding the scalable bit stream in accordance with the selected adaptation point to produce a scaled version of the scalable encoded bitstream.

Xie does not disclose “selecting an adaptation point for the scalable encoded bitstream without regard to the scalable encoded media data,” as now recited in claim 11. Instead, Xie selects an adaptation scheme for an image based on the content of the image. In particular, Xie discloses that the optimal adaptation scheme for an image is selected based on objective measures of information fidelity that are calculated for one or more attention objects that are identified in the image from the integration of the results of visual attention modeling of the image (see, e.g., col. 2, line 50 - col. 3, line 5).

For at least this reason, the rejection of claim 11 under 35 U.S.C. § 102(e) over Xie now should be withdrawn.

B. Claims 12-19

Each of claims 12-19 incorporates the elements of independent claim 11 and therefore is patentable over Xie for at least the same reasons explained above.

C. Claim 33

Independent claim 33 has been amended and now recites elements that essentially track the pertinent elements of claim 11 discussed above. Therefore, claim 33 is patentable over Xie for at least the same reasons explained above in connection with claim 11.

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D. Claim 34

Independent claim 34 has been amended and now recites elements that essentially track the pertinent elements of claim 11 discussed above. Therefore, claim 34 is patentable over Xie for at least the same reasons explained above in connection with claim 11.

V. New claims 37-43

Each of claims 37-43 incorporates the elements of independent claim 11 and therefore is patentable over Xie for at least the same reasons explained above.

VI. Conclusion

For the reasons explained above, all of the pending claims are now in condition for allowance and should be allowed.

Charge any excess fees or apply any credits to Deposit Account No. 08-2025.

Respectfully submitted,

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